

POLICY NOTE

THE TWEED REGULATION (SALMON CARCASS TAGGING) ORDER 2016

SSI 2016/117

Purpose of the Instrument

1. The Tweed Regulation (Salmon Carcass Tagging) Order 2016 ('the 2016 Tweed Order') makes provision for and in connection with the tagging of salmon within the Tweed district. The Order requires that Atlantic salmon caught within the Tweed District (other than by rod and line) must be tagged. The Order also makes provision regarding the nature and form of the tags, how those must be affixed and requirements as to record keeping.

Legislative Context

2. Article 43A(1), (2) and (3)(a) of the Scotland Act 1998 (River Tweed) Order 2006 enables the Scottish Ministers to make provision, by order, for or in connection with tagging the carcasses of salmon. Article 43A was introduced by the Scotland Act 1998 (River Tweed) Amendment Order 2015 to introduce a power to create a tagging scheme to mirror section 21A of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 ("the 2003 Act").

Policy Background

3. The creation of a tagging scheme for salmon was discussed and debated in during the passage of the Aquaculture and Fisheries (Scotland) Act 2013 which included a power to create a scheme for the rest of Scotland (section 21A of the 2003 Act). At that time there was broad support from stakeholders for the introduction of a carcass tagging scheme. The River Tweed commission were consulted on a possible carcass tagging scheme and were supportive.

4. The report of the independent Wild Fisheries Review (WFR), <http://www.gov.scot/Resource/0046/00460195.pdf> published in October 2014, recommended that, in advance of consideration of the broader reform agenda for wild fisheries, Ministers take immediate action to conserve wild Atlantic Salmon by introducing as soon as practicable a ban on killing except under licence. The introduction of a carcass tagging scheme was part of the proposals.

5. The Conservation of Salmon (Scotland) Regulations 2016 (the Conservation Regulations) and the Tweed Regulation (Salmon Conservation) Order 2016 ("the Conservation Order") are being laid along with this Order and the Salmon Carcass Tagging (Scotland) Regulations 2016. The Conservation Regulations and the Conservation Order make provision to require assessments of separate areas of inland waters which will then be categorised according to their conservation status. In addition they prohibit the retention of Atlantic salmon caught in coastal waters. This effectively means that the 2016 Tweed Order will apply only to salmon caught in-river (above estuary limits) within the Tweed district.

6. The Salmon Carcass Tagging (Scotland) Regulations 2016 which cover Scotland are being laid with this Order.

7. This Order is being made in order to diminish the availability of illegally caught wild salmon to the commercial market; protect companies legitimately operating in a commercial market and improve statistical data and provide a further layer of audit to the catch data currently provided to Marine Scotland. The provisions within the Order mirror the provisions within the Salmon Carcass Tagging Regulations (Scotland) Regulations 2016.

Consultation

7. Since February 2015, Ministers have conducted a series of linked public consultations on proposed conservation measures to regulate the killing of wild salmon including a carcass tagging scheme

<http://www.gov.scot/Topics/marine/Salmon-Trout-Coarse/fishreform/licence/documents>

This included a consultation around the Strategic Environmental Assessment – Environmental report was undertaken. Marine Scotland officials also participated in a number of drop in sessions coordinated alongside the wild fisheries reform agenda and an online dialogue discussion was conducted for a full week, exploring a number of issues identified during the consultation process (including carcass tagging) and during the discussion forum itself. The Order was notified to the European Commission under the Technical Standards Directive (EU) 2015/1535 (replacing Directive 98/34/EU). The Order makes provision regarding the nature and form of a salmon tag which are technical requirements and technical standards under the Directive.

8. Ministers listened to, and acted upon, these concerns and consulted on revised conservation measures including carcass tagging while still retaining the fundamental principle that any killing of wild salmon - a protected species – must be sustainable and does not present a threat to vulnerable stocks. Discussions took place with the River Tweed Commission as part of the wider consultation process in respect of the Conservation Regulations.

Impact and Financial effects

9. A separate **Business and Regulatory Impact Assessment (BRIA)** has been prepared for these Regulations.

Wild Salmon and Recreational Fisheries
Marine Scotland
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